

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MARCIE MEYER and MICHAEL  
MEYER,

Plaintiffs,

v.

CURRIE TECH CORP. and ACCELL  
NORTH AMERICA, INC.,

Defendants.

**8:16CV542**

**ORDER**

This matter is before the Court on Defendants' Objections to Deposition Designations from Plaintiffs.

The parties have highlighted and filed the specific provisions of the depositions to be offered at trial in lieu of live testimony. Defendants have identified by page and line numbers those portions of the designated testimony to which they object.

The Court has reviewed all of the designated testimony and rules as follows:

**Robb (Part I), Ex. 148**

<b>Page: Line Number</b>	<b>Objection</b>	<b>Rulings</b>
38: 24-25	Rule 403, form, foundation, argumentative, improper testimony by counsel: move to strike	Overruled
39: 1-16	Rule 403, Form, foundation, argumentative, improper testimony by counsel: move to strike	Overruled
45: 17-23	Rules 402 and 403, not a question, move to strike	Overruled
47: 20-25	Rules 402 and 403	Overruled
48: 1-10	Rules 402 and 403	Overruled
48: 17-20	Rule 403, form, improper testimony by counsel: move to strike	Overruled
64: 25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
65: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained

66: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	1-19 Sustained 20-25 Overruled
67: 1-16	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Overruled
71: 18-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
72: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
73: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
74: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
75: 1-23	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
76: 9-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
77: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
78: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
79: 1-16	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
105: 10-20	Rules 402 and 403, not a question, move to strike	Overruled
129: 9-17	Rule 403, speculation	Overruled
131: 14-18	Attorney cross talk: move to strike	Sustained
134: 2	Attorney cross talk: move to strike	Sustained
135: 25	Attorney cross talk: move to strike	Sustained
136: 1-2	Attorney cross talk: move to strike	Sustained

**Robb (part II – January 30, 2018), Ex. 309**

<b>Page: Line Number</b>	<b>Objection</b>	<b>Rulings</b>
7: 5-10	Rule 402, Attorney cross talk: move to strike	Overruled
21: 21-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
22: 1-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
23: 1-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
24: 1-24	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
28: 23-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled

29: 1-5, 16-21	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
32: 1-6	. . . this." Rule 402, Attorney cross talk: move to strike	Overruled
34: 2-6	Move to strike, court reporter repeating the question	Not designated
38: 10	Withdrawn	
40: 5-21, 24-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
41: 1-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
42: 1-7	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
43: 12-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled; Sustained as to relevancy
44: 1-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
45: 1-6	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
51: 24-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
52: 1-2, 12-15, 21-24	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
53: 1-4, 11-13, 15-25	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
54: 1-18	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
55: 1-13	Beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
57: 6-9	Form	Overruled (waived)
57: 14-25	Rule 402, beyond the scope of the court's order, Filing No. 133: move to strike	No testimony was designated in transcript
58: 1-6	Rule 402, beyond the scope of the court's order, Filing No. 133: move to strike	No testimony was designated in transcript
58: 11-14	Form	Overruled (waived)
59: 17-25	Cumulative, asked and answered	No testimony was designated in transcript
60: 1-16	Cumulative, asked and answered	No testimony was designated in transcript

**Horner, Ex. 151**

<b>Page: Line Number</b>	<b>Objection</b>	<b>Rulings</b>
34: 10-19	. . . here. Rule 403	Overruled
34: 25	Rules 402 and 403	Overruled
35: 1-8	Rules 402 and 403	Overruled
45: 7-10	Rule 402	Overruled
46: 15	Rule 402	Sustained
48: 13-25	Rules 402 and 403, form, not a question by counsel, move to strike	Overruled (waived)
49: 1-3	Rules 402 and 403, form, not a question by counsel, move to strike	Overruled (waived)
57: 4-12	Rules 402 and 403	Sustained
65: 21-23	Rule 402	Sustained
68: 10-25	Rules 402 and 403, speculation	Overruled
69: 1-6	Rules 402 and 403, speculation	Overruled
69: 7-25	Rules 402 and 403, speculation	Overruled
70: 1-25	Rules 402 and 403, speculation, hearsay	Overruled
71: 1-25	Rules 402 and 403, speculation, hearsay	Overruled
72: 1-8	Rules 402 and 403, speculation, hearsay	Overruled
75: 1-4	Rules 402 and 403, speculation, hearsay	Sustained
78: 19-25	Rules 402 and 403	Overruled
79: 1-5, 16-25	Rules 402 and 403	Overruled
86: 2-16	Rules 402 and 403, speculation	Overruled
89: 1-9	Rules 402 and 403	Overruled
90: 15-19	Rules 402 and 403, speculation	Overruled
91: 4-25	Rules 402 and 403, speculation	Overruled
92: 1-25	Rules 402 and 403, speculation	Overruled
93: 1-18	Rules 402 and 403, speculation	Overruled
97: 9-17	. . . that. Rules 402 and 403, hearsay	Overruled
98: 17-25	Rules 402 and 403	Overruled
99: 1-16	Rules 402 and 403	Overruled
101: 1-5	Form	Overruled
102: 11-12	Argumentative	Overruled
103: 2-22	Argumentative: hearsay, form, foundation	Overruled
103: 23-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
104: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
105: 1-17	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
106: 17-24	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
108: 10-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained

109: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
110: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
111: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
112: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
113: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
114: 1-14	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
116: 7-25	Rule 403, hearsay	Overruled
119: 9-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
120: 1-10, 25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
121: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
122: 1-11	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
131: 12-13	Withdraw objection	Withdrawn
133: 25	Rules 402 and 403, foundation argumentative	No testimony was designated in transcript
134: 1-5	Rules 403 and 403, foundation, argumentative	No testimony was designated in transcript
138: 23-25	Form, foundation, argumentative	Overruled
141: 12-17	Form, foundation, counsel cannot testify, Rules 402 and 403, not a question buy counsel, move to strike	Sustained
142: 11-22	Rule 403, foundation, form	Overruled
144: 8-20	Rule 402	Overruled
150: 17-23	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Overruled
154: 19-22		The line/page noted is only an objection – N/A
157: 17-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
158: 1-6	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained
162: 4-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained

163: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403, form, foundation	Sustained
164: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403, form, foundation	Sustained
165: 1-25	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403, form, foundation	Sustained
166: 1-15	Filing No. 137 prior court ruling CFR 1512: Rules 402 and 403	Sustained

### **Schniderman, Ex. 145**

<b>Page: Line Number</b>	<b>Objection</b>	<b>Rulings</b>
14: 11-14	Rules 402 and 403	Sustained
15: 20-23	(You didn't . . . once. No,) Rules 402 and 403	Sustained
31: 19-25	Rules 402 and 403	Overruled
32: 1-25	Rules 402 and 403	Overruled
33: 1-25	Rules 402 and 403	Overruled
34: 14-25	Rules 402 and 403	Overruled
35: 1-25	Rules 402 and 403	Overruled
36: 1	Rules 402 and 403	Overruled
42: 21-25	Rules 402 and 403	Overruled
43: 1-8	Rules 402 and 403	Overruled
58: 15-25	Rules 402 and 403	15-21 Sustained 22-25 Overruled
59: 1-25	Rules 402 and 403	Overruled
62: 24-25	Rules 402 and 403, cumulative	Overruled
63: 1-25	Rules 402 and 403, cumulative	Overruled
64: 1-4	Rules 402 and 403, cumulative	Overruled
65: 24-25	Rules 402 and 403, scope	Overruled
66: 1-8	Rules 402 and 403, scope	Overruled
67: 9-25	Rules 402 and 403	Overruled
68: 1-25	Rules 402 and 403	Overruled
69: 4-20	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
70: 11-25	Rule 403, scope, calls for a legal conclusion, calls for an expert opinion	Overruled
71: 1-13	Rule 403, scope, calls for a legal conclusion, calls for an expert opinion	Overruled

### **Pizzi Part I (February 8, 2018), Ex. 149**

<b>Page: Line Number</b>	<b>Objection</b>	<b>Rulings</b>
40: 15-25	Rules 402 and 403	Sustained

41: 1-9	Rules 402 and 403	Sustained
48: 20-25	Rules 402 and 403	Overruled
49: 1-5	Rules 402 and 403	Overruled
60: 17-25	Rules 402 and 403	Overruled
61: 1-3	Rules 402 and 403	Overruled
73: 23-25	Rules 402 and 403, form, foundation, counsel cannot testify, move to strike	Sustained
74: 1-9	Rules 402 and 403, form, foundation, counsel cannot testify, move to strike	Sustained
75: 20-24	Rules 402 and 403, form, foundation, counsel cannot testify, move to strike	Overruled
76: 1-17	Rules 402 and 403, form, foundation, counsel cannot testify, move to strike	Overruled
78: 5-10, 11-24	Form, hearsay, argumentative	Overruled
78: 25	Rules 402 and 403, form, foundation, counsel cannot testify, move to strike	Overruled
79: 1-9, 24-25	Rules 402 and 403, form, foundation, counsel cannot testify, move to strike	Overruled
80: 1-7	. . . that.” Rules 402 and 403, form, foundation, counsel cannot testify, move to strike	Overruled
85: 14-25	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
86: 1-17	Form, hearsay, argumentative	Overruled
87: 9-25	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
88: 1-15	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
89: 13-25	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
90: 1-25	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
91: 1, 19-23	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
98: 8-19	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
100: 6-15	Rules 402 and 403, form, foundation, hearsay, counsel cannot testify, move to strike	Overruled
105: 19-25	Rules 402 and 403	Sustained
106: 1-13	Rules 402 and 403	Sustained
112: 21-22	Withdrawn	N/A
115: 23-25	Rules 402 and 403	Overruled
116: 1-12	Rules 402 and 403	Overruled
124: 21-25	Rules 402 and 403, form, foundation, compound question, counsel cannot testify, move to strike	Overruled
126: 21-25	Rule 403, hearsay	Overruled
127: 1-4	Rule 403, hearsay	Overruled

127: 12-22, 25	Rule 403, hearsay, form, counsel cannot testify, move to strike	Overruled
128: 1-3, 6	Rule 403, hearsay, form, counsel cannot testify, move to strike	Overruled
129: 13-24	Rule 402, hearsay, counsel cannot testify, move to strike	Overruled
129: 25	Cumulative, asked and answered	Overruled
130: 1-8	Cumulative, asked and answered	Overruled
132: 21-25	Rules 402 and 403, hearsay	Overruled
133: 1-5	Rules 402 and 403, hearsay	Overruled
136: 17-22	Rule 403, form	Overruled
158: 8-12, 16-25	Form, compound question	Overruled (waived)
167: 11-13	“I . . . ) form, counsel cannot testify, move to strike	Overruled
172: 19-25	Cumulative, asked and answered	Overruled
173: 1-3	Cumulative, asked and answered	Overruled
206: 16-23	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained

### **Pizzi Part II (September 11, 2018), Ex. 211**

<b>Page: Line Number</b>	<b>Objection</b>	<b>Rulings</b>
32: 3-18, 23-24	Rule 402, form, foundation, hearsay, counsel cannot testify, move to strike	Overruled
33: 2-8	Rule 402, form, foundation, hearsay, counsel cannot testify, move to strike	Overruled
81: 17-25	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
82: 5-25	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
84: 1-25	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained
85: 1-25	Rules 402 and 403, Filing No. 137 prior court ruling barring CFR 1512	Sustained

### **Pizzi Part III (January 10, 2019), Ex. 303**

<b>Page: Line Number</b>	<b>Objection</b>	<b>Rulings</b>
16: 21-17: 7	Defendants’ Motion in Limine, Filing No. 12	Overruled
29: 4-14, 17-25	Rules 402 and 403, beyond the scope of the court’s order, Filing No. 133: move to strike	Overruled
30: 1-7, 9-21, 23-25	Rules 402 and 403, beyond the scope of the court’s order, Filing No. 133: move to strike	Overruled



31: 1-5, 14-23	Rules 402 and 403, beyond the scope of the court's order, Filing No. 133: move to strike	Overruled
51: 1-13	Rules 402 and 403, cumulative, asked and answered	Overruled

**Jerome Sherman (February 12, 2019), Ex. 345**

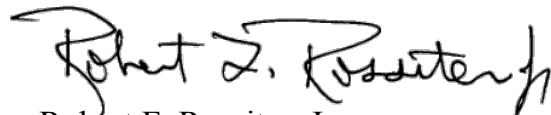
<b>Page: Line Number</b>	<b>Objection</b>	<b>Rulings</b>
20: 5-12	Leading	Overruled
26: 11-12	Withdrawn	N/A
53: 6-12	Relevance	Overruled
53: 18-21	Speculation and relevance	Sustained
56: 10-12	Rule 403, move to strike, no answer by witness	Sustained
57: 3-11	Speculation, hearsay, move to strike	Overruled

The parties are reminded that any video depositions to be used at trial should be edited so that any objectionable testimony is removed.

In addition, the Court notes that witness Mitch Robb's ("Robb") three depositions are designated to be utilized as trial testimony. If Robb is available as a witness at trial, the Court is not inclined to allow counsel to use video-deposition testimony of Robb, except to the extent that it is properly used to impeach.

Dated this 6th day of March 2019.

BY THE COURT:



Robert F. Rossiter, Jr.  
United States District Judge